

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

DEWAYNE DUDLEY,

Plaintiff,

v.

DAMON T. HININGER, et al.,

Defendants.

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Case No. 23-CV-0180-GKF-JFJ

ORDER TO CURE PLEADING AND FILING FEE DEFICIENCIES

Plaintiff Dewayne Dudley, a federal prisoner presently incarcerated at the Cimarron Correctional Facility in Cushing, Oklahoma, initiated this action on May 3, 2023, by filing a document seeking relief, in part, under 42 U.S.C. § 1983, for alleged civil rights violations committed by state officials. Based on representations in the document, the Court directed the Clerk of Court to open this matter as a civil action and to docket the document as a Complaint (Dkt. 1). Dudley filed a second document on May 11, 2023, purporting to seek relief under “Bievens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 US 388 1971,” for alleged civil rights violations committed by federal officials. The Court directed the Clerk of Court to file this document as a Supplement to the Complaint (Dkt. 2). Because neither document is sufficient to initiate a civil action in federal court, the Court orders both documents stricken. If Dudley intends to proceed with this civil action, he must (1) file a complaint for violation of civil rights, using a court-approved form, and (2) either pay the required filing fees or file a motion for leave to proceed *in forma pauperis*.

A. Form deficiency

To initiate a civil action in federal court, a prisoner must use a court-approved form. *See* Local Civil Rules of the United States District Court for the Northern District of Oklahoma (LCvR) 3-1(c) (requiring persons in custody to initiate certain federal actions by filing court-approved forms). The Clerk of Court shall send to Dudley one blank complaint for violation of civil rights (form PRIS-14), identified for filing in Case No. 23-CV-0180-GKF-JFJ, along with instructions for completing the form. No later than 21 days after the entry of this order, Dudley shall file a complaint, on the court-approved form, if he intends to proceed with this civil action.

The Court cautions Dudley that any complaint he files, using the court-approved form, will become the operative complaint and thus will replace the Complaint (Dkt. 1) and the Supplement (Dkt. 2). Dudley therefore must include on the court-approved form (in the spaces provided and using additional pages as permitted by the form, if necessary), the names and addresses of each defendant he intends to sue, the claims he intends to pursue, and the facts that support each of his claims against each defendant.

B. Filing fee deficiency

Ordinarily, to commence a civil action, a plaintiff must pay a \$350 filing fee and a \$52 administrative fee. 28 U.S.C. § 1914(a), District Court Miscellaneous Fee Schedule. A district court may permit a plaintiff who submits an affidavit demonstrating an inability to prepay required fees and costs to commence a civil action without prepayment. 28 U.S.C. § 1915(a)(1). However, the request for leave to proceed without prepayment must be made by filing a motion for leave to proceed *in forma pauperis* on the court-approved form. LCvR3-2(a). A prisoner also must “submit a certified copy of the trust fund account statement (or institutional equivalent) for the

prisoner for the 6-month period immediately preceding the filing of the complaint . . . obtained from the appropriate official of each prison at which the prisoner is or was confined.” 28 U.S.C. § 1915(a)(2); *see also* LCvR3-2(b) (same). This information must be provided so that a court can assess not only the prisoner’s ability to pay the required filing and administrative fees but also the prisoner’s ability to pay an initial partial filing fee should the court allow the prisoner to proceed in a civil action without prepayment of the \$350 filing fee.¹ 28 U.S.C. § 1915(b).

Dudley did not submit any filing fees and did not seek leave to proceed without prepayment. The Clerk of Court shall send to Dudley one blank motion for leave to proceed *in forma pauperis* (form OKND PRIS IFP), identified for filing in Case No. 23-CV-0180-GKF-JFJ. No later than 21 days after the entry of this order, Dudley shall either (1) pay in full the \$402 filing and administrative fees necessary to commence a civil action or (2) file a motion for leave to proceed *in forma pauperis*, on the court-approved form, and submit trust fund account statements for the six-month period immediately preceding the filing of his complaint.

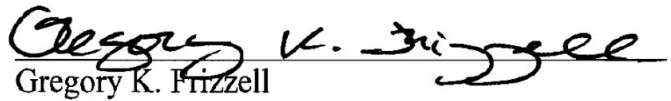
IT IS THEREFORE ORDERED that the Complaint filed May 3, 2023 (Dkt. 1) and the Supplement to the Complaint filed May 11, 2023 (Dkt. 2) are hereby **stricken** from the record.

IT IS FURTHER ORDERED that the Clerk of Court shall send to Dudley: (1) one blank complaint for violation of civil rights (form PRIS-14); and (2) one blank motion for leave to proceed *in forma pauperis* (form OKND PRIS IFP), both identified for filing in Case No. 23-CV-0180-GKF-JFJ, along with any instructions for completing the forms.

¹ If a court authorizes a plaintiff to proceed *in forma pauperis* in a civil action under § 1983, the plaintiff is not required to pay the \$52 administrative fee.

IT IS FURTHER ORDERED that, no later than 21 days after the entry of this Order, or **on or before June 2, 2023**, Dudley shall file a complaint, on the court-approved form, if he intends to proceed with this civil action. If Dudley files a complaint, he must either (1) pay in full the \$402 filing and administrative fees necessary to commence a civil action or (2) file a motion for leave to proceed *in forma pauperis*, on the court-approved form, and submit trust fund account statements for the six-month period immediately preceding the filing of his complaint.

DATED this 12th day of May, 2023.

A handwritten signature in black ink, reading "Gregory K. Frizzell". The signature is written in a cursive, flowing style. The first name "Gregory" is written with a large, prominent "G". The last name "Frizzell" is written with a long, sweeping "l" that extends to the right.

Gregory K. Frizzell
United States District Judge
Northern District of Oklahoma